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Treaty Series No. 18 (1931)

Exchange of Notes

BETWEEN HIS MAJESTY'S GOVERNMENT
IN THE UNITED KINGDOM AND
THE CHINESE GOVERNMENT

regarding the disposal of the

British Share of the China Indemnity of 1901

Nanking, September 19 and 22, 1930

Presented by the Secretary of State for Foreign Affairs
to Parliament by Command of His Majesty

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**Exchange of Notes between His Majesty's Government
in the United Kingdom and the Chinese Government
regarding the Disposal of the British Share of the
China Indemnity of 1901.**

Nanking, September 19 and 22, 1930.

(1.)

Dr. Wang to Sir M. Lampson.

Excellency,

Nanking, September 19, 1930.

I HAVE the honour to refer you to the declaration made by His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland in December 1922, that the balance of the British share of the Indemnity of 1901 would be thenceforward devoted to purposes mutually beneficial to China and the United Kingdom, and to express the hope that His Majesty's Government will at once take steps to remit all payments of the Indemnity as from the 1st December, 1922, to the control of the Chinese Government.

2. In the event of such remission being affected [*sic*] it is the intention of the Chinese Government to deal with the funds in harmony with the general views set forth in the report of the Anglo-Chinese Advisory Committee published in 1926, to which the attention of the Board of Trustees in China referred to below will be invited. The Chinese Government proposes, however, in the first instance to apply the bulk of the funds to the creation of an endowment to be subsequently devoted to the educational purposes mentioned in the Report of the Committee. It appears to the Chinese Government that the most advantageous plan for providing such an endowment would consist in the investment of the greater part of the said Indemnity funds, namely, the accumulated funds now on deposit, and all future instalments, in rehabilitating and building railways and in other productive enterprises in China. For the control, apportionment and administration of the above-mentioned endowment the Chinese Government will duly appoint a Board of Trustees in China, which will include a certain number of British members.

3. In view of the urgent necessity, in connection with reconstruction and development in China, of reconditioning the existing Chinese railways in the first instance, the Chinese Government will take the necessary steps to apply a part of the accumulated funds now on deposit and the instalments due for payment shortly in the rehabilitation of the said railways, especially those lines in which British financial interest has been particularly concerned, to which lines attention will be first given.

4. In rehabilitating and building railways and in undertaking other productive works from the Indemnity funds remitted or from loans secured on the said funds, the terms of existing contracts will be taken into consideration, but all orders for materials required and purchased abroad out of those funds themselves, including bridges, locomotives, rolling-stock, rails and other equipment, will be placed in the United Kingdom of Great Britain and Northern Ireland.

5. In order to carry out these proposals at the earliest date and in the manner most satisfactory to the two countries, the Chinese Government is prepared to agree that the whole of the accumulated funds now on deposit be transferred to a Purchasing Commission in London to consist of a chairman, who shall be China's diplomatic representative in London, a representative of the Chinese Ministry of Railways, and four other members appointed from time to time by the Chinese Government after consultation with the Board of Trustees from a panel of persons commended to those Trustees by His Majesty's Principal Secretary of State for Foreign Affairs as being persons of standing with wide experience in business matters, for the purpose of purchasing bridges, locomotives, rolling-stock, rails and other materials from United Kingdom manufacturers for the use of the Chinese Government Railways and other productive undertakings in China. It is understood that the Commission will be exempt from all taxation in respect of any income accruing to it, whether by reason of the payment to it of any of the moneys specified in this Note or from the deposit or investment of any part of such moneys as is not required for its immediate use, and its functions shall be as follows:—

- (1) To enter into and to supervise and secure the carrying out of contracts for the supply and delivery in China of such plant, machinery and other articles and material to be manufactured in each case within the United Kingdom as may from time to time be required and ordered by the Chinese Government; and
- (2) To apply all moneys received by the Commission in accordance with the terms of this note in discharging the obligations incurred under or in connexion with any such contracts, and in defraying generally the expenses of the Commission, and so far as those moneys are not immediately required for such purposes in establishing a reserve fund to enable the Commission to meet similar requirements of the Chinese Government and its own expenses in future years. All future instalments as they fall due will be paid by the Chinese Government to His Majesty's representative in China, who will transfer one-half to the Purchasing Commission in London, to be used in the same way and for similar objects as specified above, and one-half to the account of the Board of Trustees in China.

6. Funds spent in the United Kingdom will be regarded as loans, bearing interest and providing for eventual amortisation, from the Board of Trustees to the Chinese Government Railways or other productive enterprises concerned, and strict account will be rendered from time to time to the said Trustees. The amounts attributable to the service of such loans will be paid to the said Trustees and by them applied to educational purposes at the earliest opportunity.

I avail, &c.

CHENGTING T. WANG.

(2.)

Dr. Wang to Sir M. Lampson.

Excellency,

Nanking, September 19, 1930.

WITH regard to the constitution, powers and proceedings of the Purchasing Commission in London referred to in my note of to-day's date on the subject of the disposal of the British share of the Indemnity of 1901, I have the honour to state that it is my understanding that—

1. The term of office of a member of the Commission (other than the chairman) shall be three years, subject to reappointment, but a member may at any time resign his office.

2. The proceedings of the Commission shall not be invalidated by any vacancy among its members, provided, however, that no decision of the Commission shall be taken in the absence of a quorum, which shall be constituted by any four of its members.

3. The Commission may provide itself with such offices and employ such officers, expert advisers, accountants and agents as it deems necessary for the proper discharge of its functions.

4. The accounts of the Commission shall be made up to such date in each year and audited by such persons as the Commission may determine, and the Commission shall submit to the Chinese Government a summary of those accounts and of its transactions during the year and cause it to be published.

5. Subject to the above provisions and the conditions set forth in the above-mentioned note, the Commission may regulate its own procedure and make standing orders governing the conduct of its business, whether by the Commission or by committees of the members thereof.

I avail, &c.

CHENGTING T. WANG.

Sir M. Lampson to Dr. Wang.

Sir,

Nanking, September 19, 1930.

I HAVE the honour to acknowledge the receipt of your Excellency's note of to-day's date on the subject of the disposal of the balance of the British share of the Indemnity of 1901, in which you inform me of the intention of the Chinese Government, in the event of His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland returning the said Indemnity funds to its control, to create out of the said Indemnity funds an endowment to be devoted to educational purposes in harmony with the general views set forth in the report of the Anglo-Chinese Advisory Committee published in 1926.

I have also the honour to acknowledge the receipt of your Excellency's note of to-day's date regarding the constitution, powers and proceedings of the Purchasing Commission in London proposed in your Excellency's other note acknowledged above.

I am communicating the texts of your Excellency's notes to His Majesty's Government for their consideration, and in the meantime, by direction of my Government, I have the honour to suggest to your Excellency that a sum of £265,000 and a further sum of £200,000 be set aside from the accumulated funds now on deposit, to be donated respectively to the Hong Kong University for the education of Chinese students and to the Universities' China Committee in London for the promotion of closer cultural relations between China and the United Kingdom. The grant to the Universities' China Committee will be invested as an endowment fund, the proceeds of which will be used *inter alia* for inviting eminent Chinese to give lectures in the United Kingdom.

I avail, &c.

MILES W. LAMPSON.

(4.)

Dr. Wang to Sir M. Lampson.

Excellency,

Nanking, September 19, 1930.

I HAVE the honour to acknowledge the receipt of your Excellency's note of to-day's date on the subject of the disposal of the balance of the British share of the Indemnity of 1901, which contained the following proposal from His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland:—

“That a sum of £265,000 and a further sum of £200,000 be set aside from the accumulated funds now on deposit, to be donated respectively to the Hong Kong University for the education of Chinese students and to the Universities' China Committee in London for the promotion of closer cultural relations between China and the United Kingdom. The grant to the Universities'

China Committee will be invested as an endowment fund, the proceeds of which will be used *inter alia* for inviting eminent Chinese to give lectures in the United Kingdom."

In reply, I have the honour to state that the Chinese Government is in agreement with the above proposal.

I avail, &c.

CHENGTING T. WANG.

(5.)

Sir M. Lampson to Dr. Wang.

Sir, Nanking, September 22, 1930.

I HAVE the honour to acknowledge the receipt of your Excellency's note, which reads as follows:—

"I have the honour to refer you to the declaration made by His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland in December 1922, that the balance of the British share of the Indemnity of 1901 would be thenceforward devoted to purposes mutually beneficial to China and the United Kingdom, and to express the hope that His Majesty's Government will at once take steps to remit all payments of the Indemnity as from the 1st December, 1922, to the control of the Chinese Government.

"In the event of such remission being effected it is the intention of the Chinese Government to deal with the funds in harmony with the general views set forth in the report of the Anglo-Chinese Advisory Committee published in 1926, to which the attention of the Board of Trustees in China referred to below will be invited. The Chinese Government proposes, however, in the first instance to apply the bulk of the funds to the creation of an endowment to be subsequently devoted to the educational purposes mentioned in the Report of the Committee. It appears to the Chinese Government that the most advantageous plan for providing such an endowment would consist in the investment of the greater part of the said Indemnity funds, namely, the accumulated funds now on deposit and all future instalments, in rehabilitating and building railways and in other productive enterprises in China. For the control, apportionment and administration of the above-mentioned endowment the Chinese Government will duly appoint a Board of Trustees in China, which will include a certain number of British members.

"In view of the urgent necessity, in connection with reconstruction and development in China, of reconditioning the existing Chinese railways in the first instance, the Chinese Government will take the necessary steps to apply a part of the accumulated funds now on deposit and the instalments due for payment shortly in the rehabilitation of the said railways, especially those lines in which British financial interest has been particularly concerned, to which lines attention will be first given.

“In rehabilitating and building railways and in undertaking other productive works from the Indemnity funds remitted or from loans secured on the said funds, the terms of existing contracts will be taken into consideration, but all orders for materials required and purchased abroad out of those funds themselves, including bridges, locomotives, rolling-stock, rails and other equipment, will be placed in the United Kingdom of Great Britain and Northern Ireland.

“In order to carry out these proposals at the earliest date and in the manner most satisfactory to the two countries, the Chinese Government is prepared to agree that the whole of the accumulated funds now on deposit be transferred to a Purchasing Commission in London, to consist of a chairman, who shall be China's diplomatic representative in London, a representative of the Chinese Ministry of Railways, and four other members appointed from time to time by the Chinese Government after consultation with the Board of Trustees from a panel of persons commended to those Trustees by His Majesty's Principal Secretary of State for Foreign Affairs as being persons of standing with wide experience in business matters, for the purpose of purchasing bridges, locomotives, rolling-stock, rails and other materials from United Kingdom manufacturers for the use of the Chinese Government railways and other productive undertakings in China. It is understood that the Commission will be exempt from all taxation in respect of any income accruing to it, whether by reason of the payment to it of any of the moneys specified in this note or from the deposit or investment of any part of such moneys as is not required for its immediate use, and its functions shall be as follows :—

“ (1) To enter into and to supervise and secure the carrying out of contracts for the supply and delivery in China of such plant, machinery and other articles and material to be manufactured in each case within the United Kingdom as may from time to time be required and ordered by the Chinese Government; and

“ (2) To apply all moneys received by the Commission in accordance with the terms of this note in discharging the obligations incurred under or in connexion with any such contracts and in defraying generally the expenses of the Commission, and so far as those moneys are not immediately required for such purposes in establishing a reserve fund to enable the Commission to meet similar requirements of the Chinese Government and its own expenses in future years. All future instalments as they fall due will be paid by the Chinese Government to His Majesty's representative in China, who will transfer one-half to the Purchasing Commission in London, to be used in the same way and for similar objects as specified above, and one-half to the account of the Board of Trustees in China.

“Funds spent in the United Kingdom will be regarded as loans, bearing interest and providing for eventual amortisation, from the Board of Trustees to the Chinese Government Railways

or other productive enterprises concerned, and strict account will be rendered from time to time to the said Trustees. The amounts attributable to the service of such loans will be paid to the said Trustees and by them applied to educational purposes at the earliest opportunity."

I have also the honour to acknowledge the receipt of your Excellency's note, which reads as follows :—

"With regard to the constitution, powers and proceedings of the Purchasing Commission in London referred to in my note of to-day's date on the subject of the disposal of the British share of the Indemnity of 1901, I have the honour to state that it is my understanding that—

"1. The term of office of a member of the Commission (other than the chairman) shall be three years, subject to reappointment, but a member may at any time resign his office.

"2. The proceedings of the Commission shall not be invalidated by any vacancy among its members, provided, however, that no decision of the Commission shall be taken in the absence of a quorum, which shall be constituted by any four of its members.

"3. The Commission may provide itself with such offices and employ such officers, expert advisers, accountants and agents as it deems necessary for the proper discharge of its functions.

"4. The accounts of the Commission shall be made up to such date in each year and audited by such persons as the Commission may determine and the Commission shall submit to the Chinese Government a summary of those accounts and of its transactions during the year and cause it to be published.

"5. Subject to the above provisions and the conditions set forth in the above-mentioned note, the Commission may regulate its own procedure and make standing orders governing the conduct of its business, whether by the Commission or by committees of the members thereof."

I have also the honour to acknowledge the receipt of your Excellency's note, which reads as follows :—

"I have the honour to acknowledge the receipt of your Excellency's note of to-day's date on the subject of the disposal of the balance of the British share of the Indemnity of 1901, which contained the following proposal from His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland :—

"That a sum of £265,000 and a further sum of £200,000 be set aside from the accumulated funds now on deposit, to be donated respectively to the Hong Kong University for the education of Chinese students and to the Universities' China Committee in London for the promotion of closer cultural relations between China and the United Kingdom. The grant to the Universities' China Committee will be invested as an endowment fund, the proceeds of which will be used *inter alia* for inviting eminent Chinese to give lectures in the United Kingdom."

“In reply I have the honour to state that the Chinese Government is in agreement with the above proposal.”

I have the honour to inform your Excellency that I duly communicated your notes to His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland, who have instructed me to inform you in reply that they appreciate and approve the proposals suggested by your Government as to the future utilisation of the balance of the British share of the Indemnity, and that they confirm your Excellency's understanding that the proposed Purchasing Commission in London will be exempt from all taxation in respect of any income accruing to it, whether by reason of the payment to or from the deposit or investment of any part of such moneys as is not required for its immediate use, and also confirm your Excellency's understanding in regard to the constitution, powers and proceedings of the said Commission. The Act of Parliament, the enactment of which is required, will be drafted so as to give effect thereto. His Majesty's Government believe that the rehabilitation and construction of railways will not only provide valuable educational endowments but will also in themselves promote trade and prosperity and will thus advance the mutual interests of both countries. They especially appreciate the intention of the Chinese Government to place orders for materials with British manufacturers in the United Kingdom of Great Britain and Northern Ireland, and they consider the method of carrying out this intention as suggested in paragraphs 5 and 6 of your Excellency's note of the 19th September should prove satisfactory to both countries. They will be glad to avail themselves of the proposals, subject, of course, to the terms of the existing contracts, both those between British firms and Chinese authorities and those between British firms and their foreign partners. His Majesty's Government will, therefore, subject to the necessary legislation being passed in Parliament and upon it coming into force, remit all payments of the Indemnity as from the 1st December, 1922, and transfer to the proposed Purchasing Commission in London all the deposited funds, less the expenditure already incurred under sections I (1) and I (3) of the China Indemnity (Application) Act of 1925 and subject to the deduction of the two sums of £200,000 and £265,000 set aside for the Universities' China Committee and the Hong Kong University respectively, and will pass future payments to the control of the Chinese Government in the manner and subject to the conditions provided in the notes referred to in paragraphs 1 and 2 of this note.

I avail, &c.

MILES W. LAMPSON.
